

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Newport News Division**

**UNITED STATES OF AMERICA**

**v.**

**CRIMINAL NO. 4:12cr28**

**MICHAEL JAY TUCKER,**

**Defendant.**

**ORDER**

Defendant Michael Jay Tucker was sentenced by this Court on January 14, 2014. At his sentencing Defendant Michael Jay Tucker made several statements including:

"And when the court sentences me today I'm going to file a 2255 for ineffective counsel."

"[D]espite Mr. Diamonstein's last comment, I mean his closing arguments, unfortunately I will, I'm still going to file my 2255."

Defendant Michael Tucker's period in which to file a notice of his appeal expired January 28, 2014, fourteen days after his sentencing, and no appeal was filed during that appeal period.

However, pursuant to the Federal Rule of Appellate Procedure:

"Upon a finding of excusable neglect or good cause, the district court may--before or after the time has expired, with or without motion and notice--extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b)."

Fed. R. App. P. 4(b)(4).


The Court interprets Defendant's statements at sentencing regarding his immediate desire to file a § 2255 petition as a layman expressing his desire to appeal his conviction and sentence. Based on these statements, the Court therefore finds good cause to extend the time to file a notice of appeal. The Court **ORDERS** a 30 day extension of the time to file a notice of appeal, thus extending the deadline within which such notice must be filed to February 28, 2014.

The Court further **DIRECTS** the Clerk to immediately note Michael Jay Tucker's appeal to the United States Court of Appeals for the Fourth Circuit.

The Clerk is **REQUESTED** to send a copy of this Order to the Defendant, Defendant's trial counsel, and to the Assistant United States Attorney in Norfolk, Virginia.

It is so **ORDERED**.

Norfolk, Virginia  
February 7, 2014

  
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Mark S. Davis  
United States District Judge